



Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Requestor Name and Address: VISTA HOSPITAL OF DALLAS 4300 VISTA ROAD PASADENA TEXAS 77504	MFDR Tracking #: M4-09-6426-01 DWC Claim #: Injured Employee:
Respondent Name and Carrier's Austin Representative Box #: TPCIGA FOR RELIANCE NATIONAL INDEMNITY Box #: 50	Date of Injury: Employer Name: Insurance Carrier #:

PART II: REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Vista Hospital Of Dallas charges fair and reasonable rates for its services. Specifically, these rates are based upon a comparison of charges to other carriers and the amount of reimbursement received for these same or similar services. The amount of reimbursement deemed to be fair and reasonable by Vista Hospital Of Dallas is at a minimum, 70% of the billed charges. This is supported by the Focus managed care contract."

Amount in Dispute: \$37,530.12

PART III: RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The billing in dispute has been paid at a fair and reasonable rate in accordance with TWCC guidelines, policies and rules, and the Texas Labor Code. Carrier has determined that \$2236 represents an amount greater than or equal to the fair and reasonable reimbursement for this service. The provider must therefore prove that the reimbursement received is not fair and reasonable." "By definition, ambulatory surgery is appropriate in medical situations requiring treatment that is less intensive than inpatient surgery. It is therefore instructive to compare the reimbursement for inpatient surgery with the billings in the immediate case. The Commission has set per diem rates for an inpatient admission at \$1118 per day for surgical treatment and \$1560 per day for intensive care unit treatment. Provider has billed a multiple of these daily rates for a procedure that the documentation shows lasted a few hours, including recovery time." "Because Requestor has failed to prove that the reimbursement received is not fair and reasonable, Requestor is not entitled to further reimbursement."

Response Submitted by: Flahive, Ogden & Latson, Attorneys At Law, 504 Lavaca, Suite 1000, Austin, Texas 78701

PART IV: SUMMARY OF FINDINGS

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
02/26/2008	147,45,112-003,113-001,13-031,113,120-101,960-001	Outpatient Surgery	\$37,530.12	\$0.00
			Total Due:	\$0.00

PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code §413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.1, titled *Medical Reimbursement*, effective January 17, 2008 set out the reimbursement guidelines.

This request for medical fee dispute resolution was received by the Division on February 25, 2009.

- For the services involved in this dispute, the respondent reduced or denied payment with reason codes:
 - 147 – Provider contracted/negotiated rate expired or not on file.
 - 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement. (Use Group Codes PR or CO depending upon liability).
 - 112-003 – THE PRIMARY PROVIDER IS A NON-CONTRACTED PROVIDER.
 - 113-011 – OTHER IMPORT RE-PRICING COMPLETED BY FAIRPAY.

- 113-031 – EXPORT/IMPORT RE-PRICING EXPLANATION 1: 97 Payment is included in the allowance for another service/procedure.
 - 113-035 – EXPORT/IMPORT RE-PRICING EXPLANATION 5: The charges have been reviewed by FairPay Solutions Inc. For questions regarding this analysis, contact FairPay Solutions Customer Service at 888-380-5616.
 - 113 – ANY OTHER REDUCTION WAS DETERMINED BY THE EXTERNAL VENDOR. ALL NEGOTIATED REDUCTIONS FOR THE WHOLE BILL ARE APPLIED TO THE FIRST LINE WITH AN ALLOWANCE AMOUNT.
 - 147 – Provider contracted/negotiated rate expired or not on file.
 - 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement. (Use Group Codes PR or CO depending upon liability). ALL NEGOTIATED REDUCTIONS FOR THE WHOLE BILL ARE APPLIED TO THE FIRST LINE WITH AN ALLOWANCE AMOUNT.
 - 113-031 – EXPORT/IMPORT RE-PRICING EXPLANATION 1: W10 No maximum allowable defined by fee guideline. Reimbursement made based on insurance carrier fair and reasonable reimbursement methodology.
 - 120-101 – THE ALLOWANCE FOR THIS CODE HAS BEEN INCLUDED IN THE TOTAL ALLOWANCE FOR THE BILL.
 - 131 – Claim specific negotiated discount.
 - 960-001 – REPRICING PER FAIR PAY SOLUTIONS. FOR QUESTIONS CALL 888-380-5616.
 - The Texas Acute Care Inpatient Hospital Fee Guideline (Rule 134.401 Sec. (c)(5)(A) provides that “reimbursement for the entire admission shall be at a fair and reasonable rate.” Four outpatient services, Title 28 Administrative Code 42.140 requires the reimbursement to a provider for the treatment of injured employees must be an amount that is fair and reasonable. This review does not dispute the medical necessity of the services. Provider has presented no additional documentation and/or reports that would alter the recommendation. Hence, no additional reimbursement is due at this time as the recommendation comports with state law.
2. The respondent denied reimbursement for the disputed service based upon “Charges exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.” 28 TAC §133.3 requires that “Any communication between the health care provider and insurance carrier related to medical bill processing shall be of sufficient, specific detail to allow the respondent to easily identify the information required to resolve the issue or question related to the medical bill. Generic statements that simply state a conclusion such as ‘insurance carrier improperly reduced the bill’ or ‘health care provider did not document’ or other similar phrases with no further description of the factual basis for the sender’s position does not satisfy the requirements of this section.” The Division finds that the denial reason is generic because it does not identify where a contract was accessed, nor does it identify the network if indeed a discount was taken due to a contract. The respondent did not clarify or otherwise address the 45 claim adjustment code upon receipt of the request for dispute resolution. For this reason, the Division finds that the 45 claim adjustment code is not supported.
 3. This dispute relates to services with reimbursement subject to the provisions of Division rule at 28 TAC §134.1, effective January 17, 2008, 33 TexReg 428, which requires that, in the absence of an applicable fee guideline or a negotiated contract, reimbursement for health care not provided through a workers’ compensation health care network shall be made in accordance with subsection §134.1(f) which states that “Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.”
 4. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
 5. Division rule at 28 TAC §133.307(c)(2)(F)(iv), effective May 25, 2008, 33 TexReg 3954, applicable to requests filed on or after May 25, 2008, requires that the request shall include a position statement of the disputed issue(s) that shall include “how the submitted documentation supports the requestor position for each disputed fee issue.” Review of the submitted documentation finds that the requestor has not discussed how the submitted documentation supports the requestor position for each disputed fee issue. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §133.307(c)(2)(F)(iv).
 6. Division rule at 28 TAC §133.307(c)(2)(G), effective May 25, 2008, 33 TexReg 3954, applicable to requests filed on or after May 25, 2008, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:
 - The requestor’s position statement asserts that “Vista Hospital Of Dallas charges fair and reasonable rates for its services. Specifically, these rates are based upon a comparison of charges to other carriers and the amount of reimbursement received for these same or similar services.”

- The requestor did not provide documentation to demonstrate how it determined its usual and customary charges for the disputed services.
- Documentation of the comparison of charges to other carriers was not presented for review.
- Documentation of the amount of reimbursement received for these same or similar services was not presented for review.
- The Division has previously found that “hospital charges are not a valid indicator of a hospital’s costs of providing services nor of what is being paid by other payors,” as stated in the adoption preamble to the Division’s former *Acute Care Inpatient Hospital Fee Guideline*, 22 TexReg 6276 (July 4, 1997). It further states that “Alternative methods of reimbursement were considered... and rejected because they use hospital charges as their basis and allow the hospitals to affect their reimbursement by inflating their charges...” 22 TexReg 6268-6269. Therefore, the use of a hospital’s “usual and customary” charges cannot be favorably considered when no other data or documentation was submitted to support that the payment amount being sought is a fair and reasonable reimbursement for the services in dispute.
- In the alternative, the requestor asks to be reimbursed a minimum of 70% of billed charges, in support of which the requestor states that “The amount of reimbursement deemed to be fair and reasonable by Vista Hospital Of Dallas is at a minimum, 70% of the billed charges. This is supported by the Focus managed care contract. It also shows numerous Insurance Carrier s’ willingness to provide 70% reimbursement for Out-Patient Hospital setting medical services.”
- The requestor’s position statement further asserts that “amounts paid to healthcare providers by third party payers are relevant to determining fair and reasonable workers’ compensation reimbursement. Further, the Division stated specifically that managed care contracts fulfill the requirements of Texas Labor Code § 413.011 as they are ‘relevant to what fair and reasonable reimbursement is,’ ‘they are relevant to achieving cost control,’ ‘they are relevant to ensuring access to quality care,’ and they are ‘highly reliable.’ See 22 TexReg 6272. Finally, managed care contracts were determined by the Division to be the best indication of a market price voluntarily negotiated for medical services.”
- While managed care contracts are relevant to determining a fair and reasonable reimbursement, the Division has previously found that a reimbursement methodology based upon payment of a percentage of a hospital’s billed charges does not produce an acceptable payment amount. This methodology was considered and rejected by the Division in the adoption preamble to the Division’s former *Acute Care Inpatient Hospital Fee Guideline*, which states at 22 Texas Register 6276 (July 4, 1997) that:

“A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources.”

Therefore, a reimbursement amount that is calculated based upon a percentage of a hospital’s billed charges cannot be favorably considered when no other data or documentation was submitted to support that the payment amount being sought is a fair and reasonable reimbursement for the services in dispute.

- The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of Division rule at 28 TAC §134.1.

The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

7. The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rule at 28 Texas Administrative Code §133.307(c)(2)(F)(iv) and §133.307(c)(2)(G). The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is \$0.00.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code §413.011(a-d), §413.031 and §413.0311
28 Texas Administrative Code §133.307, §134.1
Texas Government Code, Chapter 2001, Subchapter G

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute.

DECISION:

_____	_____	08/25/2011
Authorized Signature	Medical Fee Dispute Resolution Officer	Date
_____	_____	08/25/2011
Authorized Signature	Medical Fee Dispute Resolution Manager	Date

PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 TAC §148.3(c).

Under Texas Labor Code §413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.